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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Revision of the Commission's Rules )  
to Ensure Compatibility with Enhanced )  
911 Emergency Calling Systems )

CC Docket No. 94-102  
RM-8143

To: The Commission

**EX PARTE SUBMISSION OF VOICESTREAM WIRELESS CORPORATION**  
**IN SUPPORT OF PETITIONS FOR RECONSIDERATION**

VoiceStream Wireless Corporation ("VoiceStream"), by its attorneys and pursuant to Section 1.1206(b) of the Commission's Rules,<sup>1</sup> hereby tenders its ex parte submission in the above-captioned proceeding. By this filing, VoiceStream responds to comments submitted in connection with the pending petitions for reconsideration<sup>2</sup> of the Commission's Third Report and Order regarding enhanced 911 emergency calling.<sup>3</sup> VoiceStream agrees with the petitioners, and with numerous other commenting parties, that the Commission should revise its deadlines and

<sup>1</sup> In accordance with that Rule, an original and two (2) copies of this filing are being submitted to the Office of the Secretary.

<sup>2</sup> Petitions for reconsideration were filed by Aerial Communications, Inc. ("Aerial") (the "Aerial Petition"), Nokia, Inc. and Motorola, Inc. (the "Nokia Petition") and Sprint PCS (the "Sprint Petition"). VoiceStream and Aerial have pending applications for Commission approval of the proposed merger of the two companies (FCC File No. 0000053257) (lead application) (filed Dec. 1, 1999). Although VoiceStream has not actively participated in this proceeding prior to this filing, it supports the positions taken by the petitioners, including those of Aerial, as noted herein. VoiceStream will continue to advance Aerial's arguments upon consummation of the pending merger.

<sup>3</sup> Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, FCC 99-245 (rel. Oct. 6, 1999) ("Third Report and Order").

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accuracy standards adopted in its Third Report and Order for implementation of handset and hybrid-based Phase II automatic location information (“ALI”) enhanced 911 (“E-911”) capabilities. Because those deadlines and standards are without record support, appear unattainable and are not technologically neutral, the Commission should revisit them, but only after it has compiled the necessary record.

As one of the nation’s largest wireless operators, VoiceStream shares the Commission’s view of the importance of enabling wireless callers to obtain emergency assistance by dialing 911 by allowing operators to identify the caller’s location. While the general rules and policies established in the captioned proceeding will go far toward making that objective a reality, the subject petitions for reconsideration and responsive comments identify significant problems posed by the Third Report and Order. In light of the developmental state of Phase II technologies, the new requirements for ALI accuracy levels and the deadlines for carrier implementation of E-911 service are unrealistic. Accordingly, because the continued enforcement of these requirements and deadlines will actually disserve the meritorious goal of the expedited roll-out and universal availability of this important service and will discourage diversity of technological solutions, they should be revisited by the Commission.

**A. THE COMMISSION SHOULD REVISE ITS ACCURACY STANDARDS FOR HANDSET-BASED SOLUTIONS**

In its Third Report and Order, the Commission established that wireless carriers may provide Phase II ALI by means of global modifications to their networks (“network-based solutions”), modifications to the handsets used over their systems (“handset-based solutions”) or by using a combination of both network and handset revisions (“hybrid solutions”). The revised accuracy requirements specify that handset-based solutions for E-911 service deliver location

accuracy of 50 meters for 67 percent of calls and of 150 meters for 95 percent of calls, twice as strict as that required (100 meters–67 percent/300 meter–95 percent) of systems that employ network-based solutions. VoiceStream agrees with petitioners Aerial<sup>4</sup> and Nokia and Motorola<sup>5</sup> that the FCC’s imposition of these requirements is flawed because it is not based on any record evidence. Instead, the Commission appears to have based its handset accuracy requirements solely upon tests, reports and filings sponsored by ALI equipment vendors,<sup>6</sup> to which no carrier or handset manufacturer had the opportunity to comment. Moreover, as Aerial points out in its Petition, even those vendors’ submissions fail to support the accuracy levels adopted for handset-based solutions.<sup>7</sup>

In light of this state of affairs, the Commission should formally solicit public comment on these vendor filings and compile a full and complete record that objectively supports whatever accuracy standards are ultimately adopted. Additional testing in the real world is necessary before accuracy standards are imposed, with particular attention paid to the performance of handsets in an urban environment, particularly within buildings.<sup>8</sup> VoiceStream also agrees with various industry commenters that, until the FCC has established verification and compliance procedures to measure carrier accuracy compliance after it has evaluated the public comments

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<sup>4</sup> Aerial Petition at 2-3.

<sup>5</sup> Nokia Petition at 6-7.

<sup>6</sup> Comments of Nextel Communications, Inc. (“Nextel Comments”) at 8-9.

<sup>7</sup> Aerial Petition at 2.

<sup>8</sup> Nokia Petition at 6-7; Comments of US West Wireless, LLC (“US West Comments”) at 8.

regarding those procedures that it requested last October,<sup>9</sup> any adoption of the final E-911 accuracy standards would be premature.<sup>10</sup>

Finally, as noted by Aerial in its Petition<sup>11</sup> and as numerous commenters, including Snaptrack, Inc.<sup>12</sup> and Qualcomm, Incorporated<sup>13</sup> have agreed, the Commission's imposition of disparate accuracy standards for network and handset-based location technologies serve no logical purpose. The Commission's action appears to be based on its belief that, while the network solution will reach all (+/-) handsets, the handset solution should offer a significantly superior location capability because of the substantial number of non-ALI compliant legacy handsets that will continue be out in the marketplace and in use. However, no public service answering point ("PSAP") operator is not now ready to receive and process Phase II information and most will not be capable of doing so for years. Under the current rules, a wireless operator that employs network solutions will not have to upgrade a particular system until months after it has received a Phase II request from a PSAPs in its service area. Contrary to the FCC's analysis, location services will be deployed at least as rapidly with the handset solution as with the network solution. Thus, no reason exists to the handset solution to a doubly stringent standard to that imposed upon systems which employ network solutions.

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<sup>9</sup> Information Sought on Methods for Verifying Compliance with E-911 Accuracy Standards, Public Notice, DA 99-2130 (rel. Oct. 9, 1999).

<sup>10</sup> Nextel Comments at 9.

<sup>11</sup> Aerial Petition at 3-4.

<sup>12</sup> Comments of Snaptrack, Inc. at 6.

<sup>13</sup> Comments of Qualcomm, Incorporated at 5.

Indeed, by imposing a significantly more stringent standard on handset-based solutions than that applicable to network-based solutions, the Commission has steered far from its commitment to be technologically neutral in its E-911 rules and procedures.<sup>14</sup> Should these differing standards remain in place, operators will be forced to adopt the less onerous network-based solutions, a result contrary to the FCC's objective of fostering the availability of a multiple number of ALI solutions, network-based, handset-based or hybrid. In its process of reviewing the handset accuracy standards, true to its commitment of neutrality, the Commission should conform the handset standards with those imposed for systems employing network-based solutions.

**B. THE COMMISSION SHOULD ALSO REVISIT ITS IMPLEMENTATION SCHEDULES FOR HANDSET-BASED SOLUTIONS**

In their Petition, Nokia and Motorola also question the feasibility of the Commission's implementation dates for handset-based solutions adopted in the Third Report and Order, particularly the requirement that all carriers employing such solutions begin selling ALI-capable handsets by March 1, 2001. Because a carrier's ability to meet these deadlines will be totally dependent upon the availability of such handsets from manufacturers, VoiceStream believes that the Commission should take particular note of these comments, which were submitted by the leading manufacturers of such equipment. As succinctly noted by US West in its Comments, "the Commission has ignored the overriding issue of commercial availability in determining whether carrier compliance can be achieved."<sup>15</sup> Particularly since ALI-capable handsets do not

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<sup>14</sup> Third Report and Order at ¶¶ 78-82.

<sup>15</sup> US West Comments at 3.

currently exist, it is questionable that manufacturers will be able to design, test, manufacture and market such products in time to meet the March 1, 2001 deadline. The arbitrariness of the imposition of such a deadline is underscored by the fact that, since the PSAP operators whose dispatchers would receive and use ALI caller information have targeted October 2001 or later for having the capability to utilize such information, to require the equipment to be available seven months earlier makes no practical sense. The public interest would be better served by providing manufacturers with sufficient time to develop this equipment in an orderly fashion time, time for which those manufacturers have expressed a need.<sup>16</sup>

Similarly, as pointed out by US West,<sup>17</sup> the record contains no support for the Third Report and Order's accelerated deployment timetable for markets in which the PSAP has requested service (the later of six months after the request or by October 1, 2001). Such a bifurcated approach was neither proposed by any commenting party nor is supported by the record. Also of concern to VoiceStream is the issue of a carrier's responsibility to accommodate a PSAP request in situations in which the PSAP is active within only a portion of the carrier's geographic service area. Must the carriers and all sellers of handsets throughout the geographic service area market ALI-capable handsets as a result of the PSAP request? If not, how will it be determined precisely which sellers of handsets are affected by the PSAP request? These are significant issues which remain unresolved.

Again, the record is bare of comments from manufacturers as to when they foresee that ALI-capable handsets will actually be ready for sale to subscribers and when and in what manner wireless carriers predict that they will be able to deploy this service capability. The Commission

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<sup>16</sup> Comments of Nextel Communications, Inc. at 5-6.

<sup>17</sup> US West Comments at 6.

should formally develop such a record and, only then, create a timetable that is not just expeditious, but one that can actually be met in the real world.

C. **CONCLUSION**

As the filings before the Commission make clear, from its understandable desire to expedite the availability of E-911 service to wireless customers, in formulating its subject rules and policies, the FCC has relied substantially upon overly optimistic representations made by the manufacturers of ALI equipment. These parties have an inherent economic incentive to advocate as strict a set of accuracy standards and as aggressive an implementation schedule as can be conceived. Noticeably absent from the record is any comment from carriers or manufacturers of handset equipment as to whether these representations are, in fact, accurate.

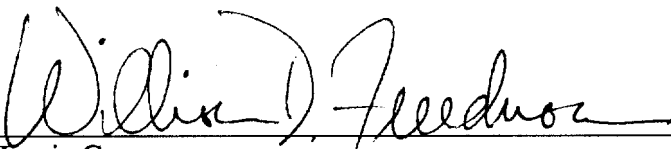
As a responsible carrier, VoiceStream is fully committed to providing its customers with Phase II ALI service. However, as is the case with most other carriers, it has yet to determine which solutions and technologies it will employ to provide that service. VoiceStream is currently evaluating its options by which to comply with the new E-911 requirements. From this process, it has yet to confirm the availability of any tested technology that can fully meet the Commission's accuracy and roll-out requirements imposed in the Third Report and Order, much less select the means by which it will proceed.

In deciding whether to revisit its policies established in the Third Report and Order, the FCC should recognize the unanimity of the concerns raised by the nation's major wireless carriers -- AT&T Wireless Services, Inc., US West Wireless, LLC, Sprint PCS, Aerial Communications, Inc., Nextel Communications, Inc. and, with this filing, VoiceStream Wireless Corporation -- and of the major wireless telephone suppliers -- Nokia, Inc., Motorola, Inc. and

Qualcomm, Incorporated. These concerns have also been raised by the Cellular Telecommunications Industry Association and the Personal Communications Industry Association, the international organizations of the wireless communications industry. These commenting parties, who will have the responsibility to actually bring E-911 service to their customers, agree that the Commission's policies are unreasonable and unsupported by the record.<sup>18</sup> In light of the public interest inherent in the expeditious, universal availability of automatic location information for wireless subscribers who access 911 emergency service, the Commission should take the time to develop the required record and to adopt policies that can best realize that objective.

Respectfully submitted,

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<sup>18</sup> The only comments in opposition to the petitions were filed by KSI, Inc. and by the Association of Public Safety Communications Officials International, Inc. Both commenters state that they oppose reconsideration because they believe that E-911 service is important and modification of the rules and policies adopted in the Third Report and Order would create "regulatory uncertainty." Because the other commenters, who agree that E-911 service will be quite useful, have unanimously and correctly observed that these rules and policies will not meet the Commission's objectives for the service, VoiceStream respectfully submits that reconsideration, and reasoned analysis of a full record, is entirely appropriate.